

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES ANTHONY TOLAN,

Plaintiff,

**RENO POLICE OFFICER AMANDA
HARTSHORN: et al**

Defendants.

3:10-cv-0017-LRH-WGC

ORDER

Before the court is defendants Reno Police Officer Amanda Hartshorn (“Officer Hartshorn”); Reno Police Officer Michael Barnes (“Officer Barnes”); and the City of Reno’s (“City”) (collectively “defendants”) motion to strike, or in the alternative, to take the deposition of non-party Matthew Baker (“Baker”). Doc. #87.¹

Plaintiff James Anthony Tolan (“Tolan”) filed a civil rights complaint against defendants arising out of an arrest in which Tolan broke his leg. Doc. #1, Exhibit 1. Defendants filed a motion for summary judgment. Doc. #80. In response, Tolan filed an opposition in which he relied on a declaration by non-party Baker as well as a video allegedly taken by Baker at the time of the incident. Doc. #83.

Defendants sought to depose non-party Baker. However, Baker failed to show for his regularly scheduled and noticed deposition. *See* Doc. #87, Exhibit D. Thereafter, defendants filed

¹ Refers to the court's docket entry number.

1 the present motion to strike the declaration of Baker, as well as the alleged video evidence, or allow
2 defendants to depose Baker and supplement their motion for summary judgment. Doc. #87.

3 Plaintiff Tolan does not oppose allowing defendants to depose non-party Baker at this time
4 after the close of discovery and both parties' counsel have stated affirmatively to the court that they
5 are willing to work together to depose non-party Baker. Accordingly, the court shall grant
6 defendants' motion and allow them to depose non-party Baker.

7

8 IT IS THEREFORE ORDERED that defendants' motion to strike, or in the alternative, to
9 depose non-party Matthew Baker (Doc. #87) is GRANTED. Defendants shall have sixty (60) days
10 to depose non-party Matthew Baker and file a renewed motion for summary judgment.

11 IT IS FURTHER ORDERED that defendants' motion for summary judgment (Doc. #80) is
12 DENIED without prejudice.

13 IT IS SO ORDERED.

14 DATED this 24th day of January, 2013.



LARRY R. HICKS
UNITED STATES DISTRICT JUDGE

15

16

17

18

19

20

21

22

23

24

25

26